

JUL 28 2006

NOT FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JOSE RONDAN-VILLA, aka Javier
Valenzuela,

Defendant - Appellant.

No. 05-10309

D.C. No. CR-04-02377-DCB

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted July 24, 2006**

Before: ALARCÓN, HAWKINS, and THOMAS, Circuit Judges.

Jose Rondan-Villa appeals from his guilty-plea conviction and the 74-month sentence imposed for illegal reentry, in violation of 8 U.S.C. § 1326. We have jurisdiction under 28 U.S.C. § 1291.

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Rondan-Villa's challenge to his conviction is based upon a claim of ineffective assistance of counsel. We decline to consider this claim because the record is insufficiently developed to resolve it on direct review. *See United States v. Jeronimo*, 398 F.3d 1149, 1155-56 (9th Cir. 2005).

Rondan-Villa contends the district court failed to consider adequately the sentencing factors enumerated in 18 U.S.C. § 3553(a). We disagree. The district court was not required to consider potential disparities between Rondan-Villa's sentence and those for defendants sentenced under a fast-track program. *See United States v. Marcial-Santiago*, 447 F.3d 715, 717-18 (9th Cir. 2006). In addition, the district court properly addressed Rondan-Villa's criminal history in considering the need to protect the public and to afford adequate deterrence to further criminal conduct, *see* 18 U.S.C. § 3553(a)(2)(B), (D), and sentenced Rondan-Villa below the range recommended by the advisory sentencing guidelines. *See United States v. Plouffe*, 436 F.3d 1062, 1063 (9th Cir. 2006).

AFFIRMED.